

RECEIVED

AUG 27 1992

Federal Communications Commission  
Office of the Secretary

ORIGINAL  
FILE

RECEIVED

AUG 27 1992

MAIL BRANCH

DOUGLAS N. OWENS

LAW OFFICES

4705 16TH AVE. N.E.  
SEATTLE, WA. 98105  
TELEPHONE: (206) 527-8008  
FAX: (206) 527-0725

August 27, 1992

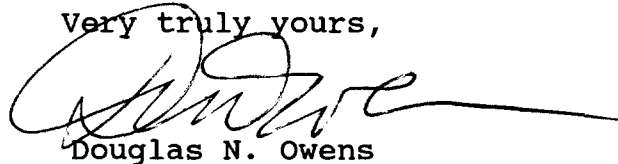
Ms. Donna Searcy, Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Re: *In the Matter of Billed Party Preference for 0+ InterLATA  
Calls*, CC Docket No. 92-77

Dear Ms. Searcy:

Enclosed are the original and nine copies of the Reply  
Comments of the Northwest Pay Phone Association opposing Billed  
Party Preference in the above docket. Please accept the same for  
filing.

Very truly yours,



Douglas N. Owens

cc: Bob Schrader

MAILED 0+8  
AUG 28 1992

RECEIVED

AUG 27 1992

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
Billed Party Preference )  
for 0+ InterLATA calls )

CC Docket No. 92-77

RECEIVED

AUG 27 1992

MAIL BRANCH

REPLY COMMENTS OF THE NORTHWEST PAY PHONE ASSOCIATION

Douglas N. Owens  
4705 16th St. N.E.  
Seattle, Washington 98105  
(206) 527-8008

Its Attorney

August 27, 1992

## TABLE OF CONTENTS

I.	SUMMARY . . . . .	-1-
II.	THE COSTS OF BILLED PARTY PREFERENCE WILL BE SIGNIFICANT. . . . .	-2-
III.	EVIDENCE INDICATES BPP WILL DEGRADE SERVICE PERCEPTIBLY . . . . .	-5-
IV.	CONSUMERS WILL HAVE LESS, NOT MORE, CHOICE UNDER THE PROPOSAL. . . . .	-6-
V.	THERE IS NOTHING INHERENTLY HARMFUL TO THE PUBLIC INTEREST ABOUT PAYPHONE COMMISSIONS, AND IN FACT THEY ARE BENEFICIAL. . . . .	-7-
VI.	BPP IS NOT THE SOLUTION TO THE POTENTIAL REMONOPOLIZATION BY AT&T. . . . .	-9-
VII.	ALL COMMENTERS AGREED THAT UBIQUITY OF BPP WAS NECESSARY, BUT THERE IS NO EVIDENCE THAT UBIQUITY IS POSSIBLE, OR WHAT THE COST IS. . . . .	-10-
VIII.	THE PROPOSAL SHOULD NOT BE IMPLEMENTED WITHOUT A REASONABLE PLAN TO COMPENSATE PAY TELEPHONE OWNERS. . . . .	-10-
	CONCLUSION . . . . .	-11-

RECEIVED

AUG 27 1992

Federal Communications Commission  
Office of the Secretary

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In the Matter of                    )  
  )  
Billed Party Preference            )                   CC Docket No. 92-77  
for 0+ InterLATA calls            )

**REPLY COMMENTS OF THE NORTHWEST PAY PHONE ASSOCIATION**

The Northwest Pay Phone Association ("NPPA"), pursuant to the Notice issued May 8, 1992 in this Docket,<sup>1</sup> submits its reply comments concerning the proposed requirement by the Commission that Billed Party Preference be mandated through changes in the Commission's rules. NPPA submits that the information provided in the comments of other parties supports deferring action by the Commission and does not support the Commission's tentative finding in the Notice.

**I. SUMMARY**

Initial comments of the parties may be roughly divided into those of the LECs who generally do not oppose the proposal so long as they are assured of recovering their costs, the state commissions who generally support the proposal as a consumer benefit, the state governments, city of New York, corrections authorities, universities, truck stops and airports who generally oppose the proposal, AT&T who opposes the proposal, MCI and Sprint who support the proposal and the vast array of providers of pay

---

<sup>1</sup>In the Matter of Billed Party Preference for 0+ InterLATA Calls, Notice of Proposed Rulemaking, FCC 92-169, released May 8, 1992.

telephone and operator services other than AT&T, MCI and Sprint, who oppose the proposal.

Those who responded to the Commission's specific inquiries have provided varying estimates of the cost to implement the proposal which aggregate to roughly \$787 million, exclusive of Southwestern Bell and the small independent LECs, who indicate that they do not yet know the cost. The initial comments also variously state that there will be or will not be increases in the call completion time from implementation of Billed Party Preference, and that there will be or will not be the need for customers to provide billing information twice. One state regulator was frank enough to admit that overall, even with the elimination of commissions to location owners, rates to consumers may well increase in order to pay for the cost of the proposal.

None of the comments demonstrates that Billed Party Preference is in the public interest now, as being worth its cost and producing benefits beyond the substantial market upheaval and destruction of significant segments of the producer population it will entail.

## **II. THE COSTS OF BILLED PARTY PREFERENCE WILL BE SIGNIFICANT.**

Most of the commenting LECs provided estimates of the cost to implement Billed Party Preference. These estimates vary widely in terms of their characterization as "capital" and "one time expense" and "ongoing expense." Bell Atlantic, at App. A of its comments, estimated \$110 million. Southern New England Telephone at p. 1 of its comments, estimated \$30 million. Pacific Bell at p. 20 of its

comments, estimated \$103 million. GTE at p. 11 of its comments, estimated \$84 million. Nynex at p. 4 of its comments, estimated \$82.6 million. Bellsouth at p. 12 of its comments, estimated \$144 million. Ameritech at p. 16 of its comments, estimated \$52 million. AT&T at pp. 13-14 of its comments, estimated \$68 million. Southwestern Bell at p. 13 of its comments stated the costs were yet unknown. OPASTCO, representing more than four hundred companies, indicated at p. 4 of its comments that the small independent LECs did not know the cost.

The approximate total of this known investment, consisting of the capital and one time expenses, is \$787 million. This investment is essentially a dead weight loss on the economy. No additional production will have been made possible by the investment. Additional investment that is now producing, namely store and forward pay telephone equipment, will be rendered unusable by the proposal. It is only alleged by the proponents of Billed Party Preference that some consumers who are not inclined to dial access codes, will find it marginally easier to assure themselves that their desired carriers are in fact carrying their 0+ and 0- calls, as a result of this new investment. No public benefits are ascribed by the commenters to the idling of store and forward equipment investment.

The parties also comment variously on how this investment is to be recovered. The commenting LECs are unanimous in insisting that Billed Party Preference not be considered a "new service." Some LECs are concerned that Billed Party Preference will not,

unless its costs are also foisted on those customers who continue with access code dialing, be competitive in the marketplace. SNET suggests at p. 2 of its comments that the cost of the proposal be recovered through a new access charge rate element, paid by all carriers. Nynex at p. 20 of its comments proposes that all end users, even those who make or receive no operator assisted calls, pay the cost of Billed Party Preference through increases in the End User Common Line charge.

What is clear is, as the comments of the American Public Communications Council show, a vastly expensive undertaking for the United States telecommunications industry is on the verge of being ordered by the Commission, for the putative benefit of a relatively small number of consumers, and many other consumers will be assessed the substantial cost. Under the Commission's proposal, as APCC's comments show at p. 20, only consumers who make interstate interLATA calls and who are not inclined to dial access codes but who want to direct calls to specific carriers, will receive the supposed benefits of the plan. According to APCC interstate calls are about 50% of all calls. (Id.) The fraction of interstate callers who want to designate the carrier but who do not want to dial access codes has not been ascertained.<sup>2</sup> Yet jurisdictional

---

<sup>2</sup>NPPA's prior reply comments on the proprietary calling card issues in this docket, at p. 2 show further the de minimis character of the alleged problem. AT&T has presubscribed 80% of the pay telephones and it has a 25 million base of embedded calling card customers. Most of the time, those customers reach AT&T without dialing an access code, and without Billed Party Preference. The comments of the American Hotel and Motel Association also indicate at p. 13 that only 13% of calls from hotels and motels are not carried by the "big three" carriers.

separations will apparently allocate 75% of the costs to the intrastate jurisdiction.

It is true that several state regulatory commissions have submitted comments expressing support for the concept of billed party preference. It is possible that some of these agencies will adopt billed party preference as the mode of handling for intrastate interLATA calls, which amounts, according to APCC, to an additional 25% of operator-handled calls. But without intraLATA presubscription, callers of the remaining 25% will never experience billed party preference for intraLATA operator assisted calls. Yet they will pay for the cost of service used by others.

The Pennsylvania PUC acknowledges at p. 7 of its comments that overall, even taking into account the end of commission payments and assuming that the savings are passed through to callers, consumer charges under Billed Party Preference may exceed current charges. The cure appears to be far worse than the purported disease.

### **III. EVIDENCE INDICATES BPP WILL DEGRADE SERVICE PERCEPTIBLY**

The Commission asked for comment on the extent to which consumers would perceive service as degraded compared to that which exists today, under Billed Party Preference. Most of the LECs and the Illinois Commerce Commission opined, without evidence, that there would be no increase in call set-up time and consumers would not have to give the same billing information twice, under the



proposal.<sup>3</sup> U S WEST and Bellsouth, however, indicated that there would be an increase in call set up time under the program. U S WEST at p. 13 of its comments compared the time saved through not having to dial access codes with the estimated times required to set up several types of calls under BPP, and concluded that in all cases, the time to complete a call would increase, and the increase could be substantial (up to thirty seconds). Will consumers consider themselves better off, waiting thirty seconds for their calls to complete?

Most LECs and the state regulatory agencies dismissed the problem of dual operator involvement under the proposal, citing Signaling System 7 and AABS as the panacea. U S WEST pointed out at p. 8 of its comments that Signaling System 7 for transport between OSSs has not been developed. Until this happens, and the additional investment is made to deploy this new technology, according to the commenters who addressed the issue, customers will have to enter their billing information twice, either verbally to a live operator or by entering numbers at the keypad. Is this progress?

#### **IV. CONSUMERS WILL HAVE LESS, NOT MORE, CHOICE UNDER THE PROPOSAL.**

The entire concept of Billed Party Preference as proposed, is a misnomer. Almost all of those who responded to the Commission's question about designating the carrier the billed party preferred, had trouble with this aspect of the proposal. Virtually everyone

---

<sup>3</sup>Ameritech, at p. 15; USTA, at p. 7; Bell Atlantic, at p. 8; SNET, at p. 7; Pacific Bell, at p. 11; Southwestern Bell, at p. 15.

who addressed the issue proposed defaulting the customer's 0+ calls to the same carrier that is presubscribed for the customer's 1+ traffic. This, of course, excludes from participating, the overwhelming majority of small operator services entrepreneurs who do not provide 1+ presubscribed service. No reason was given on principle, why it should be necessary for a carrier to provide 1+ service in order to be able to compete for 0+ or 0- calls. The implicit assumption is that consumers, as the "billed party" should be spared the task of responding to a ballot to express their "preference."

Those few commenters who proposed balloting as well as those who proposed defaulting 0+ calls to the 1+ carrier said that the customer's first choice 0+ carrier should in turn, select the "backup" carrier in the event the first choice carrier did not operate in a given region from which the customer desired to originate a call.<sup>4</sup> No one explained how this defaulting or carrier choice by other carriers was any more a legitimate expression of "customer preference" than the existing system of access code calling. On its face, it is less.

**V. THERE IS NOTHING INHERENTLY HARMFUL TO THE PUBLIC INTEREST ABOUT PAYPHONE COMMISSIONS, AND IN FACT THEY ARE BENEFICIAL.**

Numerous airport authorities, state financial agencies, universities, truck stop operators, convenience store owners and others responsible for making space available for pay telephones, commented on the assumption in the Notice that the existing system

---

<sup>4</sup>Missouri PSC, MCI, Bell Atlantic at p. 4.

of pay telephone commission compensation is inherently contrary to the public interest. These commenters uniformly repudiated that assumption.

Beyond mouthing the words in the Notice that Billed Party Preference would "shift the focus" of competition to the consumer, none of the commenters who support the proposal, showed how such commissions harm the public interest.<sup>5</sup> In fact, as APCC's comments point out, if the concern is that commissions are too high, the direct way to address that is to acknowledge that the LECs with whom private payphone operators compete, currently can pay commissions from their general revenues.<sup>6</sup> Of course, once Billed Party Preference is in place the LECs will have no incentive to pay commissions.

Commenter after commenter has suggested that the Commission focus on the prospect that pay telephones that now serve the public in many locations will be lost as the small entrepreneurs, such as the members of the NPPA who seek to make a reasonable profit in this market, are squeezed out under Billed Party Preference. Airport authorities, state governments, truckstops and universities are not symptoms of a "problem" with the focus of competition. They are elements of the telecommunications marketplace.

---

<sup>5</sup>State regulators propose an explicit step backward. They advocate a return to the days when the cost of providing telephone service to guests at hotels was paid for in room charges.

<sup>6</sup>Bell Atlantic's claim at pp. 8-9 that elimination of the private payphone provider's ability to pay commissions due to the elimination of such commissions from the interexchange carrier through BPP would place private payphone providers "on the same footing" as Bell Atlantic, is laughably incorrect, for this reason.

The existing commission system serves the public by providing incentives for people to place pay telephones in locations that may be useful to callers. NPPA submits that it is impossible to make a reasoned judgment that the elimination of the presubscription commission system is in the public interest, without examining the effect on the number of pay telephones that will be made available for use by the calling public under Billed Party Preference. This examination must take into account the comments of those specific entities described above who have told this Commission that the number of pay telephones available to serve the public will decrease drastically under Billed Party Preference.<sup>7</sup> NPPA submits that such examination should lead the FCC to the conclusion that eliminating the existing system of commissions is not in the public interest.

**VI. BPP IS NOT THE SOLUTION TO THE POTENTIAL REMONOPOLIZATION BY AT&T.**

MCI and Sprint argue that Billed Party Preference is necessary to stop AT&T from remonopolizing the pay telephone market through issuance of calling cards that cannot be validated by other carriers. NPPA shares the concern of MCI and Sprint that neither AT&T nor anyone else, should be permitted to use proprietary calling cards to monopolize the pay telephone market. NPPA's prior

---

<sup>7</sup>A small but representative sampling of the large number of these comments includes the Airports Association Council International - NA at p. 13, indicating that the most heavily used phones near gates will be the ones removed, the National Association of Convenience Stores at p. 14 indicating that thousands of pay phones are jeopardized by this proposal, and the National Association of Truck Stop Operators at p. 4.

comments in this docket were directed at the correct answer to this problem -- public domain calling cards.

**VII. ALL COMMENTERS AGREED THAT UBIQUITY OF BPP WAS NECESSARY, BUT THERE IS NO EVIDENCE THAT UBIQUITY IS POSSIBLE, OR WHAT THE COST IS.**

Virtually everyone who addressed the issue said that all LECs should be required to participate in Billed Party Preference, and that dialing around the billed party preference should be forbidden. No one has commented giving the Commission the facts on the cost to small independent LECs of complying. OPASTCO's comments suggest that small independent LECs should be exempted from the program. But this would of course produce the customer confusion the Commission hopes to avoid. GTE's comments observed that many small LECs contract with larger LECs for operator services, but GTE did not venture an estimate of the cost to those other LECs of complying with the proposal.

**VIII. THE PROPOSAL SHOULD NOT BE IMPLEMENTED WITHOUT A REASONABLE PLAN TO COMPENSATE PAY TELEPHONE OWNERS.**

As noted by the comments of the Independent Payphone Association of New York, Inc. at p. 12, it will be impossible for store and forward pay telephones to operate legally under Billed Party Preference. No good reason has been given why this investment should be declared unusable by this agency.

Also, non store and forward pay telephone operators will lose the commission earnings on which they relied in making their investments. The Commission responded to the command of Congress

to investigate prescribing compensation to pay telephone owners whose commission earnings were reduced by the opening of access code dialing in *In the Matter of Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation*, Second Report and Order, CC Docket No. 91-35, FCC 92-170, May 8, 1992. At ¶3 of that decision, the Commission concluded that no entity currently has the ability to determine accurately the number of access code calls that originate from each competitive payphone, and that the LECs could not differentiate between such calls and other 1-800 and 950 calls. The Commission therefore prescribed a monthly per telephone compensation plan, rather than a per-call plan.

Congress has not called for Billed Party Preference. There is no congressional mandate to end the commission system, similar to that which resulted in the after-the-fact implementation of the monthly compensation plan for access code calling in the above docket. The Commission should not impose Billed Party Preference in the absence of the development of a technology by which reasonable per-call compensation can be paid to pay telephone owners.

#### CONCLUSION

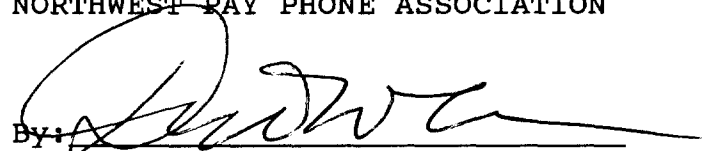
The many comments that were filed in response to the Notice are evidence of a broad interest in this docket. The Commission has made a tentative finding that requiring Billed Party Preference would be in the public interest. This finding was made without more than the sketchiest information on the cost of the proposal.

The cost information is still sketchy. One of the RBOCs has not been able to supply an estimate. The available information does indicate, however, that more than three-quarters of a billion dollars of private investment will be required. There is no indication that, absent governmental compulsion, this investment would produce a product that people will buy, at a price that produces a reasonable return.

The existing access code system, so recently required by Congress, is only beginning to have an impact on the conditions that caused the concerns of those who felt that the prior system of routing operator assisted calls, was unfair. It would be wasteful and arbitrary for the Commission to scrap that system now in favor of commanding the industry to issue an essentially blank check to create a system that will degrade service and that will not produce significant benefits to consumers. NPPA respectfully requests that the Commission take no action on implementing Billed Party Preference as a requirement of law, at this time.

Respectfully submitted,

NORTHWEST RAY PHONE ASSOCIATION

By: 

Douglas N. Owens  
4705 16th Ave. N.E.  
Seattle, Wa. 98105  
(206) 527-8008

Its Attorney

August 27, 1992